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FOOD FOR THOUGHT!
By Phillip Taylor

Ravalli County Commissioners

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In January of 2007 the planning department stated in their zoning plan, that there would be four things that would be addressed in the interim zoning regulation development effort. Those were density, use, height and setbacks. When I saw those four items listed I began cautioning people in meetings that those four areas are simply not enough. Interim zoning cannot be constrained to those four areas of interest for several reasons. The first is the interim zoning initiative itself which stipulates in the body of the Text of the Measure the crises that need to be addressed.

There are no ambiguities or vagaries in the initiative which calls for the following:

"Whereas, this interim zoning regulation is designed to provide the following emergency protections pending the adoption of long-term zoning regulations thoroughly addressing development in Ravalli County:

- 1. Protect the public health, safety, and general welfare of the people; and*
- 2. Conserve the values of property throughout the county and protect the character and stability of agricultural, residential, business, and industrial areas.*

NOW, THEREFORE, an interim zoning regulation is hereby adopted as an emergency measure in order to promote the public health, safety, and general welfare pursuant to Montana Code Annotated 76-2-206. This interim zoning regulation shall be applied to all of the unincorporated area of Ravalli County."

State law reinforces the initiative and is contained in the language of the following:

76-2-206. Interim zoning map or regulation. (1) The board of county commissioners may adopt an interim zoning map or regulation as an emergency measure in order to promote the public health, safety, morals, and general welfare if:

(a) the purpose of the interim zoning map or regulation is to classify and regulate those uses and related matters that constitute the emergency; and

(b) the county:

(i) is conducting or in good faith intends to conduct studies within a reasonable time; or

(ii) has held or is holding a hearing for the purpose of considering any of the following:

(A) a growth policy;

(B) zoning regulations; or

(C) a revision to a growth policy, to a master plan, as provided for in 76-1-604(6) and 76-2-201(2), or to zoning regulations pursuant to this part.

(2) An interim resolution must be limited to 1 year from the date it becomes effective. The board of county commissioners may extend the interim resolution for 1 year, but not more than one extension may be made.

Perhaps the County Commissioners have been advised by County Attorney Alex Beal that they can continue to ignore the initiative requirements as long as they institute some form of zoning. I find that to be disingenuous at best and legally indefensible. Developers have had their way in this county and nothing as simple as a "Baseline Zoning Map and Regulation" is going to change that. One only needs to look at the subdivision review activities of the past to see what goes on. The recent Board of Adjustment action granting a variance to the Corvallis Brooks Hotel

Subdivision is symptomatic of the mindset of some developers and politicians in this valley. The granting of this variance was so egregious that it defies even the simplest logic. For those who take the time to really look at this variance and the process of granting it, you will swear that it couldn't happen in America! But who had to take corrective action? Not the political community, but Bitterrooters for Planning and Phillip Taylor. What will prevent a reoccurrence of granting more variances for similar reasons? Nothing!

Ever since we started the interim zoning initiative effort, which is to plan for safeguards for the people of the valley, we have met resistance from politicians and moneyed egocentric interests whose goals are more money and power for themselves. I once naively believed that we had a chance to succeed in providing for a future that would be free of concern relative to the public health, welfare and safety of the valley and its residents. But apparently I was wrong. People interested in planning for these crises have been worn down. Fighting the selfish interests of a few is time consuming and expensive. As weariness creeps in for those involved in the struggle, the cry for help falls on deaf ears. The mindset of individuals today is to get on the Ferris wheel of life and never look down, leaving the operation of the wheel to others. But let's look at zoning and what is happening.

The zoning initiative warns of the various hazards and pitfalls for public safety and **requires that they be addressed**, as zoning regulations are studied, developed and put in place. The CPC's have been advised that density, use, height and setbacks will be the only considerations reviewed in their roles as participants in the zoning process. I had questioned this edict in various meetings and with planning staff and brought the same message to the first several Victor CPC organizational meetings, that message being the requirements of the interim zoning initiative. The current "Plan" calls for addressing only density, type of use, allowable heights of structures and lot setbacks. As you read this I want you to think hard about these four items and what they truly represent. Are they endeavors that by themselves will address the public health and safety issues which loom on the horizon? Hardly! Are they an attempt to avoid the inevitable, the scientific evaluation of the crises we possibly now face? Probably! Here we are this 31st day of December 2007 with only 312 days left to complete the requirements of the zoning initiative. Hardly seems possible doesn't it? 418 days have passed since the interim zoning initiative was passed by voters. That means we have spent 57.3% of the total time allotted by statute to complete the initiative requirements and where are we? We have 42.7% of the total time allotted, to complete the tasks required by the initiative (2 years). But we are not even considering the requirements of the initiative at this time so that leaves us in a real quandary.

When I wrote the interim zoning initiative I was and still am deeply concerned about the future of the Bitterroot Valley, primarily the safety and health issues that will surely confront us if we continue to ignore unrestrained development and avoid tackling solutions to these problems. The current planning department's "Plan" avoids tackling those problems. This valley is unique and has certain characteristics and qualities not seen anywhere else in the state of Montana. It is narrow and long with a river running through the entire county. Tributaries of the river flow downward from the two mountain ranges on the east and west sides of the valley. Moraine deposits (porous gravelly soil and debris) make up much of the valley floor. Inversions are common place, ingress and egress roads are limited to one main artery which is Highway 93, and the fragile makeup of our finite valley resources is being severely taxed. More and more blacktop

and concrete is causing more runoff which affects the recharge rates for aquifers and affects valley temperatures. Gravel pits contribute greatly to air pollution as does increased traffic. Increased population always creates a host of problems including demand for services, increased air and water pollution, school overcrowding, increased crime, more traffic congestion, overuse of limited natural resources etc. And, in the case of this valley, there are additional concerns such as the potential for more wildfires, building in unsafe zones (I suggest buffer or no build zones be established for fringe areas adjacent to forest service lands and in the river flood plain and adjacent to its tributaries.).

Let's look at density. Density is dependent on a number of things, the most important being water and sewer requirements. Presently, lots without city water and sewer are restricted to 1 dwelling per acre. This is a Department of Environmental Quality (DNRC) requirement or regulation. In the event a lot may have city water, two septic systems are permitted per acre. In the event a sub-divider builds an enclosed sewage treatment system, the density is not limited. These regulations are all that exist that relate to water and sewer and even they do not consider slopes and excitable drainage patterns. Where and when did these regulations become law? Prior to 1973 the Montana Administrative Codes stated that ½ acre lot sizes could accommodate a well and septic. There was no scientific data to arrive at this figure; it was simply pulled out of the air. In 1973 the Adm. Rules were changed and stated the 1 acre lot size would accommodate 1 well and septic system. This figure was also an arbitrary one not supported by any scientific data and remains in existence today. These regulations are based on whimsical legislative assumptions and in today's climate, they have little if any true bearing on scientific requirements for containment of pollutants. They are regulations that were established by the State Legislature in a time when little consideration was given to health and safety. There is no legitimate specific data to tell us what is happening here in the valley relative to ground and water pollution, but there are cursory looks which cite bleak futures for us all if we continue on the course of unconstrained development (source: The Tri State Water Council report). And then there are traffic issues, increased air pollution issues, the issue of the ability of law enforcement to enforce the law. How will our government cope with dramatic expansions, our justice system, our health systems, pollution of the Bitterroot River by all sources including municipal sewage plants? In response to federal legislation, the Environmental Policy Act, the State of Montana several years ago embarked on a required sampling program to determine the Total Maximum Daily Load (TMDL) of various contaminants to the Bitterroot River. The program thus far has only sampled the upper reaches of the east and west forks of the river, specifically looking at tributaries to the river in these areas. Those tributaries are listed as "Impaired waters", heavily silted and affected with other contaminants. Wintertime sampling reports high levels of particulate matter in the air, beyond recognized safe levels for air quality. The list of problems is endless. Visionary planning must take into consideration all of these issues in the development of a zoning regulation and map. **If we don't look at and study these issues, it is simply more of the same!** Public health, safety and welfare cannot be mitigated! The immediate primary focus should be on the land use map(s) while grappling with the number of acceptable buildings/families this valley will support long term. Measuring the study data and applying it to geographical areas that are tolerant of those conditions mandated by the study results has to be the only true solution that will bring the crises items into compliance. To ignore requiring such studies will result in the achievement of little. The addition of "buffer" zones to the new regulations could help some, but the zoning plan as it now exists will result in more of the same. Development will not be restrained without

showing just cause for the reasons to restrain it, and that can't happen using the current planning approach to zoning. A lawsuit could be in the making to force the county to comply with the zoning initiative. I'm out of money for such a suit, however.

Some time ago there was a letter to the editor by Richard Dill of Florence. It states in eloquent terms the very considerations we should be looking at. His letter was as follows:

"Growth Resources can't sustain infinite demand. I have watched with interest, on these opinion pages and other media sources, suggestions put forth to deal with serious problems faced by humanity. All sorts of problems: urban sprawl, species extinction, the energy crisis, food and water shortages, ozone depletion, and of course, global warming - to name just a few. Opinions are varied and diverse as to causes and possible solutions, many featuring a collage of political philosophy mixed liberally with religion. What almost all have in common, however, is **faulty logic and unsound reasoning**. You see, I don't believe any of these represent real problems. Rather they are symptoms of the real problem - growth. One cannot solve a problem unless one can first clearly define it. Let us try to clearly define why growth is the real problem. We must first state a couple of logic principles upon which to base our reasoning. Logic principle No. 1: **Infinite growth in a finite system is impossible**. Think about this statement. Think hard. Is there any situation you can imagine where this is not absolutely true? Logic principle No. 2: If it's defined, it's finite. For example: our Earth, traveling through space at 67,000 mph, has a diameter of 7,926 miles, is 30 percent land and 70 percent water. Earth is finite and all contained on it is finite: minerals, coal, oil, water. About the only thing on Earth not finite are living things. They are generally termed "renewable" because of their ability to reproduce. But even living things are renewable only within clearly defined parameters of their needs (space, water, energy requirements.) Biologists call this their "carrying capacity." So where does this leave us? Earth and essentially everything on it represents a finite system. What is the very worst system you can think of to manage such a finite place? We have been sold a bill of goods with regard to growth. Politicians promise "growth and prosperity." We are bombarded with "intelligent growth," "planned growth," "reasonable growth" and my personal favorite, "sustainable growth." The only model which can succeed long term on planet Earth requires a stabilized human population at or below earth's carrying capacity, maximum usage of renewable resources, nearly 100 percent recycling of non-renewable, and social, economic, political and religious systems in tune with logic principle No. 1. I cannot count the times I have heard the phrase **"growth is inevitable"** at meetings or discussions. People accept it as fact. A more well-reasoned statement would be **"the end of growth is inevitable."** For I can assure you it is. Richard Dill, Florence"

"The end of growth is inevitable?" Yes it is! The Bitterroot Valley in fact does have limited resources (finite). Why don't we recognize that fact? Why do we bow to special interests when good logic knows the future course of things will prove disastrous if we don't deal with the issues properly. Why don't our elected officials see beyond their noses and grasp the fact that development must be addressed in meaningful ways? The consequences of not doing so are grave indeed. We need visionary minds to deal with our future, not the same old tunnel vision that has existed in the past and is prevalent now. For example, perhaps a good way to look at the initiative problems would be to begin by starting in the future and working backwards, i.e. how many people will this valley support long term? 40,000, 50,000 or 150,000? There is a realistic number in there somewhere. Pick a number.....well you can't simply pick a number! You

will have to determine a number of things before you can arrive at a number such as: How much water do we have? How much water will be available to support varying levels of population? How much filterability does the valley floor have to support septic and enclosed sewage treatment systems? How much pollution can the Bitterroot River handle? What conditions would cause a complete collapse of the environment? And the list goes on. Presently, the zoning effort has chosen to ignore the future and the problems it will bring in favor of just getting something in place. That is a major mistake! Expansion and development without consideration of future impacts will prove fatal for life as we know it in the Bitterroot Valley. The present planning effort is not considering future impacts. It is planning in terms of short range possibilities, two or perhaps three years out. This mindset thinks in terms of linear impacts, but that is not reality.

We must not think in terms of linear expansion and impacts, the future is exponential, you see, not linear. Yet virtually all government models used to track future trends are linear. They actually work quite well for one year, two years, maybe three, since linear projection is a very good approximation of an exponential one for a short period of time -- but it's a terrible one for a long period of time. They radically diverge, because growth is truly exponential growth, dynamic and progressive, ultimately becoming explosive. It is and has happened in the Bitterroot Valley. What this means is that the issues affecting the public health, safety and welfare of this county will grow exponentially as development and increases in population occur. Look at development in the valley over the last 10 years. Who would have thought development would have progressed so rapidly and that the issues of public health, safety and welfare would be impacted so heavily? But this fact of exponential expansion is being ignored, possibly because our political leaders don't or can't comprehend the impacts of exponential development. Or possibly they have chosen to ignore the issues associated with such rapid development. Simply considering density, use, height and setbacks will not change anything here. Development similar to that in the past will continue. There will be nothing defensible to prevent it. It will continue until the valley is not a safe place to live in anymore.

Finally, our county commissioners have the authority to impose regulations that WILL protect the public health, welfare and safety of valley residents. For some reason they are hesitant to do that. Their indecisiveness and inaction will prove to be the scourge of our future. Action, any action would be better than what is happening now. The real issues are being masked by antics that will not work long range.